

RESPONSE

I. Status of the Claims

Prior to the Requirement, claims 1-19 were pending. Presently, no claims have been amended, canceled or added. Claims 1-19 are therefore pending in the case.

As no claims have been amended, canceled or added, an additional copy of the pending claims is not necessary under 37 C.F.R. § 1.121(c).

II. Restriction Requirement

The Requirement takes the position that the pending claims are drawn to two distinct inventions, set forth as:

Group I: Claims 1-13, said to be drawn to a composition comprising the 3G4 antibody or certain immunoconjugates thereof; classified in class 530, subclasses 387.1 and 391.1; and

Group II: Claims 14-19, said to be drawn to a method for treating an animal having a vascularized tumor, comprising administering to the animal a therapeutically effective amount of a composition comprising monoclonal antibody 3G4; classified in class 424, subclass 130.1.

Applicants respectfully point out that the description of the groups in the Requirement does not accurately reflect the claims. In particular, in Group I, note the absence of attached fungal toxins and coagulants from the immunoconjugates (only attached anticellular agents, cytotoxic agents, chemotherapeutic agents, cytokines, and plant or bacterial toxins are listed). In Group II, note the complete absence of immunoconjugates (see claim 16).

III. Election

Applicants hereby elect the invention of Group I without traverse.

IV. Rejoinder of Process Claims

The Requirement has restricted product and process claims, and Applicants have elected the product. Upon allowance of a product claim, withdrawn process claims that include all limitations of the allowed product claim will be rejoined in the case as a matter of right (Requirement at page 4).

Currently, independent process claim 14 includes all the limitations of independent product claim 1. Process claims 14-19 are being maintained in the case to facilitate timely rejoinder upon the allowance of a product claim (Requirement at page 4).

V. Species Election Requirement

The Requirement also sets forth three species elections, and requests elections from the species described as:

Species A, an agent conjugated to an antibody (presumably, a therapeutic agent);

Species B, a diagnostic/detectable label; and

Species C, a second anti-cancer agent.

Applicants respectfully point out that the species election requirements are improper, as they already presume election of an immunoconjugate species and a combination therapy species. Considering claim 1 in light of the species elections set forth, Applicants elect without traverse an unconjugated or "naked" antibody in a composition without a second anti-cancer agent.

Any therapeutic agents attached to the antibody, diagnostic/detectable labels attached to the antibody and second anti-cancer agents are thus all sub-species, which are only applicable to election of an immunoconjugate species and a combination therapy species. Following the election of species of unconjugated antibody without a second anti-cancer agent, the sub-species elections are moot.

Nonetheless, as examination of the initially elected species will be followed by examination of the initially non-elected immunoconjugate and combination therapy species, Applicants hereby elect in advance the sub-species of a coagulant from Species A, a radioactive iodine ion from Species B, and cisplatin from Species C.

VI. Conclusions

This is a full and complete response to the referenced Requirement. Should Examiner Yao have any questions or comments, a telephone call to the undersigned Applicants' representative is earnestly solicited.

Respectfully submitted,

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